

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ISAIAH STEARNS

75 North Johnsville/Brookville Road
New Lebanon, OH 45345

Plaintiff,

V.

PORTFOLIO RECOVERY

ASSOCIATES, LLC

c/o National Registered Agents, Inc.

145 Baker Street

Marion, Ohio 43302,

Defendant.

) Case No: 1:14-cv-95
)
) JURY DEMAND REQUESTED
)
) **AMENDED CIVIL COMPLAINT**
) **(Unlawful Debt Collection Practices)**
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AMENDED COMPLAINT

PLAINTIFF, ISAIAH STEARNS (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, PORTFOLIO RECOVERY ASSOCIATES, LLC Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in the City of New Lebanon, Montgomery County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Delaware corporation and debt collector with an office in Norfolk, Virginia.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant is seeking to collect an allegedly due and owed consumer debt obligation from Plaintiff that was incurred for personal, family, or household purposes. Upon information and belief, Defendant is seeking to collect a debt from 2000.

11. Plaintiff sent Defendant a written request for validation of the debt and that specifically requested that Defendant only contact him through email or written correspondence and that Defendant cease further attempts to collect from him via telephone.
12. Despite Plaintiff's request that Defendant only continue any collection efforts via email or written correspondence, Defendant continued to place collection calls to the Plaintiff through April 2013.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

13. Defendant violated the FDCPA based on the following:
 - a. Defendant violated *§1692c(a)(1)* by, without the prior direct consent of the consumer, communicating with the consumer at any unusual time or place or a time and place known to be inconvenient to the consumer.
 - b. Defendant violated *§1692c(c)* by failing to cease further communications with the consumer after being notified in writing that the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease further communication.
 - c. Defendant violated *§1692d* by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

WHEREFORE, Plaintiff, Isaiah Stearns, respectfully requests judgment be entered against Defendant, for the following:

14. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
15. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
16. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Isaiah Stearns, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (0071132)

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